

REMARKS

This application has been reviewed in light of the outstanding Office Action. Claims 1-7 and 9 are presented for examination, of which Claims 1, 4, and 7 are in independent form. Claims 1, 4, and 7 have been amended to define Applicants' invention more clearly. Favorable reconsideration is requested.

The November 16, 2006 Office Action was sent during a suspension of action. Applicants notified the USPTO of the error and the Interview Summary dated February 26, 2007, USPTO facsimile correspondence dated April 17, 2007, and the Interview Summary dated April 25, 2007 were sent to confirm that the Office Action mail date would be reset to February 26, 2007. Thus, Applicants understand the improperly issued November 16, 2006, Office Action to have been vacated. Nonetheless, a new Office Action has not been mailed, to Applicants' knowledge. Accordingly, Applicants are uncertain as to the actual status of this application, and request to be apprised thereof.

In paragraph 3 of the Office Action the Examiner notes an alleged admission of Applicants that,

[c]opending application 10/217,666 does not teach or suggest the limitation of wherein the plurality of data sets are stored as ungrouped data elements formatted as a block of binary via a fixed memory offset.

Applicants respectfully disagree with this statement as a serious misunderstanding of what was stated in Applicants' September 5, 2006, Amendment. In that Amendment, Applicants stated:

"Claims 1, 8 and 11 of copending Application 10/217,666 do not teach or suggest the limitation disclosed in Claim 7 as amended, namely wherein the plurality of data sets are stored as ungrouped data elements formatted as a block of binary via a fixed memory offset."

(September 5, 2006 Amendment, page 20; emphases added). Applicants respectfully request that the Examiner note that what Applicants actually said pertained only to three specific claims of that co-pending application, and not to the disclosure of the application as a whole.

Also in paragraph 3 of the Office Action the Examiner notes another alleged admission of Applicants that,

[c]opending application 10/908,544 does not teach or suggest wherein at least one of the broker database and the travel history database stores information in a plurality of data sets in a plurality of formations.

Applicants again respectfully disagree with this statement as a misunderstanding of what was stated in Applicants' September 5, 2006, Amendment, in which Applicants actually stated:

"Claim 1 of copending Application No. 10/908,544 does not teach or suggest wherein at least one of the broker database and the travel history database stores information in a plurality of data sets in a plurality of formats."

(September 5, 2006, Amendment, page 21; emphasis added). Applicants respectfully request that the Examiner note that what Applicants said in this regard was, again, limited to a specific claim in that co-pending application.

Accordingly, also, Applicants note that the Examiner's conclusion based on these misunderstandings cannot stand, and submit that the present application is entitled to benefit of one or more earlier filing date(s) as asserted previously.

In paragraph 6 of the Office Action the Examiner objected to the drawings under 37 CFR § 1.83(a). Applicants respectfully disagree with the Examiner's view that the drawings do not comply with this rule. Applicants respectfully request that the objection to the drawings be withdrawn for the following reasons.

First, “financial transaction instrument” is not a claimed feature of Claim 3.

Claim 3 includes the feature of a plurality of data sets that are annotated for storage with at least one of a header and a trailer. Second, any drawing of this feature would be difficult to illustrate as it would be necessary to show a plurality of annotated data sets. Therefore, since drawings would not facilitate an understanding of the invention, the nature of the subject matter sought to be patented (a plurality of data sets that are annotated for storage with at least one of: a header and a trailer) does not admit of illustration by a drawing, and “financial transaction instrument” is not a claimed feature, Applicants believe that the drawings do comply with 37 CFR § 1.83(a) and request that the objection be withdrawn.

Claims 3, 6 and 9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Office Action asks what is meant by a “financial transaction instrument”. (Office Action, at paragraph 6). That term may be understood as follows. A financial transaction instrument may be traditional plastic transaction cards, titanium-containing, or other metal-containing, transaction cards, clear and/or translucent transaction cards, foldable or otherwise unconventionally-sized transaction cards, radio-frequency enabled transaction cards, or other types of transaction cards, such as credit, charge, debit, pre-paid or stored-value cards, or any other like financial transaction instrument. A financial transaction instrument may instead be a fob, and whether a standard card or a fob, it may also have electronic functionality provided by a network of electronic circuitry that is printed or otherwise incorporated onto or within the transaction instrument (and typically referred to as a “smart card”), or be a fob having a transponder and an RFID reader. Applicants submit that this term is well known to those in the field of electronic commercial transactions, and respectfully request that his rejection be withdrawn.

In addition, Claims 1-3 and 7 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The rejections under 35 U.S.C. § 112, second paragraph, are respectfully traversed for the following reasons.

The Examiner states that Claims 1 and 7 are indefinite because the Applicants have not provided any structure for performing the storage in a plurality of data set in a plurality of formats. Claims 1 and 7 are drafted to include functional limitations in an attempt to define an element of the system by what it does, rather than what it is. M.P.E.P. §2173.05(g) states:

“A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. *Functional language does not, in and of itself, render a claim improper. In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. [Emphasis added]”

In Claims 1 and 7 the phrase “...database stores information into a plurality of data sets in a plurality of formats,” is a functional recitation that defines the database by what it does rather than what it is. Since Claims 1 and 7 contain functional limitations, and there is nothing inherently wrong with defining some part of an invention in functional terms, Applicants respectfully request that this rejection also be withdrawn.

Claims 7 and 9 also were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have carefully reviewed and amended Claims 7 and 9 as deemed necessary to ensure that both conform fully to the requirements of Section 112, second paragraph, with special attention to the points raised in section 8 of the Office Action.

It is believed that the rejections under Section 112, second paragraph, have all been obviated, and their withdrawal is therefore respectfully requested.

Also, in the Office Action, Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being obvious from U.S. Patent 5,832,454 (*Jafri*), in view of U.S. Patent Application Publication 2001/0049693 (*Pratt*), and Claims 7 and 9, as being obvious from those two documents in view of U.S. Patent 6,944,133 (*Wisner*). Applicants submit that independent Claims 1, 4 and 7, together with the claims dependent therefrom, are patentably distinct from the cited prior art for at least the following reasons.

The aspect of the present invention set forth in Claim 1 is a system for facilitating transactions among travel service suppliers and travel service buyers. The system comprises a communication network in communication with a plurality of centralized hub sites, a travel broker database, a travel history database, and a point of service terminal.

Among other notable features of Claim 1 is the travel broker database, which is connected to the communication network, and which is configured (a) to store information about travel service inventory, (b) to be accessed by the travel service suppliers who post and edit travel service inventory and place reverse auction bids on posted travel service inventory, and (c) to be accessed by the travel service buyers to browse and perform queries on the travel service inventory and to accept reverse auction bids for travel service inventory from travel service suppliers. Also notable is the travel history database, which is connected to the communication network, and which is configured (d) to store current information about a traveler's future travel plans, and (e) to be accessed by travel service buyers who use information about a traveler's future travel plans to place orders to travel service suppliers. Nothing has been found in *Jafri* or *Pratt* that is believed to teach or suggest the above-discussed features of Claim 1. As such,

Applicants submit that Claim 1 is patentable over the cited references and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

Independent Claims 4 and 7 include features similar to those of Claim 1 and therefore are believed to be patentable for at least the reasons discussed above.

The other claims in the present application are each dependent from one or the other of Claims 1 and 4, and therefore are believed to be patentable for the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, however, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

Finally, Applicants wish to submit the following observation. At pages 8, 10 and 13 of the Office Action the Examiner notes an alleged admission by Applicants. On each of those pages the Examiner states, “Applicant admits on page 12 of the remarks that the specific details of how to add a header or trailer to data are well-known in the art.” Applicants wish to clarify that paragraph 26 of the specification of the present application was cited to explain how the annotation of data for storage onto a financial instrument is unique to Claim 3, not that adding a header or trailer is unique to Claim 3. While the specific details of how to add a header or trailer to data may be well known in the art, the specific details of how to make the annotation are not believed to have been well known in the art at the time of the invention.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early allowance of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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